

ROBERT C. BROWN
ANN M. BROWN

IBLA 71-93

Decided July 24, 1972

Appeal from decision (M 16844) of Montana land office, Bureau of Land Management, requiring the filing of a bond.

Affirmed.

Oil and Gas Leases: Bonds

Where all of the lands in an oil and gas lease have been committed to a unit agreement and thereafter some of the lands in the lease are committed to another unit agreement, resulting in a segregated producing lease, each person holding a record title interest, however minimal, in the segregated producing lease is properly required to file a \$10,000 lease bond, or to join as co-principal with other record title holders on such a bond.

APPEARANCES: William G. Odell, Esq. of Poulson, Odell & Peterson, for the appellants.

OPINION BY MR. FISHMAN

Robert C. Brown and Ann M. Brown have appealed from a decision of the Montana land office, Bureau of Land Management, dated October 16, 1970, requiring them to file a \$10,000 bond.

The land office decision reads in part as follows:

This office has processed the segregation of lands originally embraced in noncompetitive oil and gas lease MONTANA 037497 in accordance with the provisions of the Mineral Leasing Act, as amended, due to commitment of a portion of the lands to the BELL CREEK "B" (Muddy Sand) UNIT AGREEMENT - #14-08-0001-11725, effective as of October 1, 1970.

Since all of the lands embraced in the base lease MONTANA 037497, after April 1, 1970, were committed to the BELL CREEK "A" UNIT AGREEMENT and were situated within the known geologic structure

of BELL CREEK FIELD, a separate general lease bond in the amount of \$10,000.00 must be filed for the 200.00-acre tract, which was segregated and serialized as M 16844.

M 16844 is a producing lease in its own right and remains committed to the BELL CREEK "A" UNIT AGREEMENT, which is a producing unit. Two of the co-lessees maintain units of bonding coverage applicable to absorb their leasing liabilities.

Each of you are required to furnish bonding coverage at this time. * * * You may all agree to be coprincipals on one bond in the amount of \$10,000.00, or you may, if you wish, furnish separate bonds in that amount. . . .

The base lease, Montana 037497, originally embraced 480 acres. The appellants acquired a .78125% interest in such lease. Thereafter, 240 acres were included in the Bell Creek "A" Muddy Sand Unit and the acreage outside the unit was segregated into lease Montana 15505 by land office decision of May 5, 1970. Forty acres, retained in lease Montana 037497, were subsequently committed to the Bell Creek "A" Unit included in Bell Creek "B" Muddy Sand Unit, effective October 1, 1970. Thus this forty-acre tract is committed to two unit agreements.

The appellants assert that the decision of the land office "results in the requirement for an additional bond covering the same lands which are covered by appellants' existing bond * * *". They assert that the land office rationale is that since two serial numbers are involved, two bonds are required. They stated that their interest in all the lands is less than 1% and their potential income derivable from the "B" unit is less than \$5.00.

Appellants misconceive the effect of the decision of October 16, 1970. The 40-acre tract in issue, the SW 1/4 NE 1/4 sec. 33, T. 8 S., R. 54 E., P.M., Montana remains in producing oil and gas lease Montana 037497, and has been committed to both units "A" and "B". That tract is not included in producing oil and gas lease M 16844. The surety bond, which the appellants had filed, presumably still is effective for oil and gas lease, Montana 037497. However, although the 200 acres now in M 16844 were formerly in Montana 037947, the bond filed in connection with the latter does not operate prospectively as to the lands deleted therefrom and segregated into a new lease. Therefore, we find that the bond, filed in connection with Montana 073947, does not embrace the land segregated into M 16844.

We recognize that appellants' interest, being less than 1% of record title, 1/ is minimal. Nevertheless, the regulations require that in

1/ situation in which appellants find themselves would have been avoided by their taking a royalty interest in lieu of a record title interest.

the circumstances a \$10,000 general lease bond must be filed by all record title holders, either jointly or separately. 43 CFR 3104.1(a) (1972). The appellants may wish to consider the feasibility of joining as co-principals with other record title lessees on one bond covering M 16844.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior (211 DM 13.5; 35 F.R. 12081), the decision appealed from is affirmed.

Frederick Fishman, Member

We concur:

Anne Poindexter Lewis, Member

Douglas E. Henriques, Member

